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DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-850]

Certain Fabricated Structural Steel from Mexico: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain fabricated structural steel (fabricated structural steel) from Mexico is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2018 through December 31, 2018. The final dumping margins of sales at LTFV are shown in the ‘Final Determination’ section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Krisha Hill or Aleksandras Nakutis, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4037 or (202) 482-3147, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 2019, Commerce published the *Preliminary Determination* of sales at LTFV of fabricated structural steel from Mexico, in which we also postponed the final

determination to January 23, 2020.<sup>1</sup> The petitioner in this investigation is the American Institute of Steel Construction Full Member Subgroup. The mandatory respondents in this investigation are Building Systems de Mexico, S.A. de C.V. (BSM) and Corey S.A. de C.V. (Corey).<sup>2</sup>

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice.<sup>3</sup> The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

#### Scope of the Investigation

The product covered by this investigation is fabricated structural steel from Mexico. For a complete description of the scope of this investigation, *see* Appendix I.

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<sup>1</sup> See *Certain Fabricated Structural Steel from Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 84 FR 47487 (September 10, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> Corey refers to the collapsed entity consisting of Corey S.A. de C.V. and Industrias Recal S.A. de C.V.; *see Preliminary Determination* and accompanying PDM; *see also* Memorandum, "Antidumping Duty Investigation of Fabricated Structural Steel from Mexico: Preliminary Affiliation and Collapsing Memorandum for Corey S.A. de C.V.," dated September 3, 2019.

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Fabricated Structural Steel from Mexico," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

## Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce addressed these comments in the *Preliminary Determination*, wherein Commerce preliminarily modified the scope language.

In addition, certain interested parties commented on Commerce's preliminary scope decisions. For a summary of the product coverage comments and rebuttal comments submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.<sup>6</sup> Based on the comments received, Commerce is modifying the scope language as it appeared in the *Preliminary Determination*. *See* the revised scope in Appendix I to this notice.

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II.

## Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in September and October 2019, we conducted verifications of the sales and cost information submitted by BSM and Corey for use in our final determination. We used standard verification

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<sup>4</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> *See Certain Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 84 FR 7330, 7331 (March 4, 2019) (*Initiation Notice*).

<sup>6</sup> *See* Memorandum, "Fabricated Structural Steel from Canada, Mexico, and the People's Republic of China: Final Scope Decision Memorandum," dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

procedures, including an examination of relevant accounting and production records, and original source documents provided by BSM and Corey.<sup>7</sup>

#### Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the dumping margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum and Final Calculation Memoranda.<sup>8</sup>

In addition, we revised the margin calculation for BSM to reflect the application of partial facts available with an adverse inference pursuant to section 776 of the Act. For a discussion of this change, *see* Comment 16 of the Issues and Decision Memorandum.

#### All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. BSM is the only respondent for which Commerce calculated an estimated weighted-average dumping margin that is not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, for purposes of

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<sup>7</sup> For a discussion of our verification findings, *see* Memoranda, “Verification of the Sales Questionnaire Responses of Building Systems de Mexico S.A. de C.V. in the Antidumping Duty Investigation of Certain Fabricated Structural Steel from Mexico,” dated October 31, 2019; “Verification of NCI Group, Inc. and Robertson-Ceco II Corporation in the Antidumping Duty Investigation of Certain Fabricated Structural Steel from Mexico,” dated October 31, 2019; “Verification of the Cost Responses of Building Systems de Mexico S.A. de C.V. in the Antidumping Duty Investigation of Certain Fabricated Structural Steel from Mexico,” dated November 1, 2019; “Verification of the Sales Response of Corey S.A. de C.V. and Industrias Recal S.A. de C.V.” dated November 5, 2019; and “Verification of the Cost Response of Corey S.A. de C.V. in the Antidumping Duty Investigation of Fabricated Structural Steel from Mexico,” dated October 31, 2019).

<sup>8</sup> *See* Memoranda, “Analysis Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Fabricated Structural Steel From Mexico: Building Systems de Mexico S.A. de C.V.”; “Constructed Value Calculation Adjustments for the Final Determination – Building Systems de Mexico S.A. de C.V.”; “Analysis Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Fabricated Structural Steel from Mexico: Corey S.A. de C.V.”; and “Constructed Value Calculation Adjustments for the Final Determination - Corey S.A. de C.V.,” all dated concurrently with this notice (collectively, Final Calculation Memoranda).

determining the all-others rate, pursuant to section 735(c)(5)(A) of the Act, we are using the estimated weighted-average dumping margin calculated for BSM, as referenced in the “Final Determination” section below.

#### Use of Adverse Facts Available

In the *Preliminary Determination*, we based the dumping margins for certain non-responsive companies on adverse facts available (AFA).<sup>9</sup> The AFA rate is the only, and therefore, the highest, dumping margin in the petition (*i.e.*, 30.58 percent). We received no comments on our determination to use AFA with respect to these companies. Accordingly, we are continuing to assign a dumping margin based on AFA to the non-responsive companies in this investigation.

#### Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offset(s)) (percent)
Building Systems de Mexico, S.A. de C.V.	8.47	8.47
Corey S.A. de C.V. / Industrias Recal S.A. de C.V.	0	0
Acero Tecnologia, S.A. de C.V.	30.58	0
Construcciones Industriales Tapia S.A. de C.V.	30.58	0
Estructuras Metalicas la Popular S.A. de C.V./MSCI	30.58	0
Operadora CICSА, S.A. de C.V. Swecomex – Guadalajara	30.58	0
All Others	8.47	0

#### Disclosure

<sup>9</sup> See *Preliminary Determination* and accompanying PDM.

Commerce intends to disclose the calculations performed in connection with this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) and C of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all appropriate entries of fabricated structural steel from Mexico, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register* other than entries of fabricated structural steel produced and exported by Corey, because its rate is zero. These suspension-of-liquidation instructions will remain in effect until further notice.

In addition, pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin as follows: (1) the cash deposit rate for the companies listed in the table above will be equal to the company-specific estimated weighted-average dumping margin identified for that company in the table; (2) if the exporter is not a company listed in the table above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin listed for that producer of the subject merchandise in the above table; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of export subsidies determined in a companion CVD

proceeding when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rate(s). In this case, we have found export subsidies for certain respondents. However, suspension of liquidation for provisional measures in the companion CVD case has been discontinued; therefore, we are not instructing CBP to collect cash deposits based upon the estimated weighted-average dumping margin adjusted for export subsidies at this time.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) of subject merchandise for importation no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section of this notice.

#### Notification Regarding Administrative Protective Order (APO)

In the event that the ITC issues a final negative injury determination, this notice will serve as a final reminder to the parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: January 23, 2020.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.



## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by the investigation is carbon and alloy fabricated structural steel. Fabricated structural steel is made from steel in which: (1) iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is two percent or less by weight. Fabricated structural steel products are steel products that have been fabricated for erection or assembly into structures, including, but not limited to, buildings (commercial, office, institutional, and multi-family residential); industrial and utility projects; parking decks; arenas and convention centers; medical facilities; and ports, transportation and infrastructure facilities. Fabricated structural steel is manufactured from carbon and alloy (including stainless) steel products such as angles, columns, beams, girders, plates, flange shapes (including manufactured structural shapes utilizing welded plates as a substitute for rolled wide flange sections), channels, hollow structural section (HSS) shapes, base plates, and plate-work components. Fabrication includes, but is not limited to cutting, drilling, welding, joining, bolting, bending, punching, pressure fitting, molding, grooving, adhesion, beveling, and riveting and may include items such as fasteners, nuts, bolts, rivets, screws, hinges, or joints.

The inclusion, attachment, joining, or assembly of non-steel components with fabricated structural steel does not remove the fabricated structural steel from the scope.

Fabricated structural steel is covered by the scope of the investigation regardless of whether it is painted, varnished, or coated with plastics or other metallic or non-metallic substances and regardless of whether it is assembled or partially assembled, such as into modules, modularized construction units, or sub-assemblies of fabricated structural steel.

Subject merchandise includes fabricated structural steel that has been assembled or further processed in the subject country or a third country, including but not limited to painting, varnishing, trimming, cutting, drilling, welding, joining, bolting, punching, bending, beveling, riveting, galvanizing, coating, and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the fabricated structural steel.

All products that meet the written physical description of the merchandise covered by the investigation are within the scope of the investigation unless specifically excluded or covered by the scope of an existing antidumping duty order.

Specifically excluded from the scope of the investigation are:

1. Fabricated steel concrete reinforcing bar (rebar) if: (i) it is a unitary piece of fabricated rebar, not joined, welded, or otherwise connected with any other steel product or part; or (ii) it is joined, welded, or otherwise connected only to other rebar.

2. Fabricated structural steel for bridges and bridge sections that meets American Association of State and Highway and Transportation Officials (AASHTO) bridge construction requirements or any state or local derivatives of the AASHTO bridge construction requirements.

3. Pre-engineered metal building systems, which are defined as complete metal buildings that integrate steel framing, roofing and walls to form one, pre-engineered building system, that meet Metal Building Manufacturers Association guide specifications. Pre-engineered metal building systems are typically limited in height to no more than 60 feet or two stories.

4. Steel roof and floor decking systems that meet Steel Deck Institute standards.

5. Open web steel bar joists and joist girders that meet Steel Joist Institute specifications.

6. Also excluded from the scope of the investigation is scaffolding, and parts and accessories thereof, that comply with ANSI/ASSE A10.8 – 2011 - Scaffolding Safety Requirements, and/or Occupational Safety and Health Administration regulations at 29 C.F.R. Part 1926 subpart L - Scaffolds. The outside diameter of the scaffold tubing covered by this exclusion ranges from 25mm to 150mm.

7. Excluded from the scope of the investigation are access flooring systems panels and accessories, where such panels have a total thickness ranging from 0.75 inches to 1.75 inches and consist of concrete, wood, other non-steel materials, or hollow space permanently attached to a top and bottom layer of galvanized or painted steel sheet or formed coil steel, the whole of which has been formed into a square or rectangle having a measurement of 24 inches on each side +/- 0.1 inch; 24 inches by 30 inches +/- 0.1 inch; or 24 by 36 inches +/- 0.1 inch.

8. Excluded from the investigation are the following types of steel poles, segments of steel poles, and steel components of those poles:

- Steel Electric Transmission Poles, or segments of such poles, that meet (1) the American Society of Civil Engineers (ASCE) – Design of Steel Transmission Pole Structures, ASCE/SEI 48 or (2) the USDA RUS bulletin 1724E-214 Guide specification for standard class Steel Transmission Poles. The exclusion for steel electric transmission poles also encompasses the following components thereof: transmission arms which attach to poles; pole bases; angles that do not exceed 8” x 8” x 0.75”; steel vangs, steel brackets, steel flanges, and steel caps; safety climbing cables; ladders; and steel templates.

- Steel Electric Substation Poles, or segments of such poles, that meet the American Society of Civil Engineers (ASCE) - Manuals and Reports on Engineering Practice No. 113. The exclusion for steel electric substation poles also encompasses the following components thereof: substation dead end poles; substation bus stands; substation mast poles, arms, and cross-arms; steel brackets, steel flanges, and steel caps; pole bases; safety climbing cables; ladders; and steel templates.

- Steel Electric Distribution Poles, or segments of such poles, that meet (1) American Society of Civil Engineers (ASCE) – Design of Steel Transmission Pole Structures, ASCE/SEI 48, (2) USDA RUS bulletin 1724E-204 Guide specification for steel single pole and H-frame structures, or (3) ANSI 05.1 height and class requirements for steel poles. The exclusion for steel electric distribution poles also encompasses the following components thereof: distribution arms and cross-arms; pole bases; angles that do not exceed 8" x 8" x 0.75"; steel vangs, steel brackets, steel flanges, and steel caps; safety climbing cables; ladders; and steel templates.
- Steel Traffic Signal Poles, Steel Roadway Lighting Poles, Steel Parking Lot Lighting Poles, and Steel Sports Lighting Poles, or segments of such poles, that meet (1) the American Association of State Highway and Transportation Officials (AASHTO) – Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals, (2) any state or local derivatives of the AASHTO highway sign, luminaries, and traffic signals requirements, or (3) American National Standard Institute (ANSI) C136 - American National Standard for Roadway and Area Lighting Equipment standards. The exclusion for steel traffic signal poles, steel roadway lighting poles, steel parking lot lighting poles, and steel sports lighting poles also encompasses the following components thereof: luminaire arms; hand hole rims; hand hole covers; base plates that connect to either the shaft or the arms; mast arm clamps ; mast arm tie rods; transformer base boxes; formed full base covers that hide anchor bolts; step lugs; internal cable guides; lighting cross arms; lighting service platforms; angles that do not exceed 8" x 8" x 0.75"; stainless steel hand hole door hinges and wind restraints; steel brackets, steel flanges, and steel caps; safety climbing cables; ladders; and steel templates.
- Communication Poles, or segments of such poles, that meet (1) Telecommunications Industry Association (TIA) ANSI/TIA-222 Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, or (2) American Association of State Highway and Transportation Officials (AASHTO) – Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals. The exclusion for communication poles also encompasses the following components thereof: luminaire arms; hand hole rims; hand hole covers; base plate that connects the pole to the foundation or arm to the pole; safety climbing cables; ladders; service ground platforms; step lugs; pole steps; steel brackets, steel flanges, and steel caps; angles that do not exceed 8" x 8" x 0.75", coax, and safety brackets; subcomponent kits for antenna mounts weighing 80 lbs. or less; service platforms; ice bridges; stainless steel hand hole door hinges and wind restraints; and steel templates.
- OEM Round or Polygonal Tapered Steel Poles, segments or shaft components of such poles, that meet the (1) ASCE 48 or AASHTO, (2) ANSI/TIA 222, (3) ANSI 05.1, (4) RUS bulletin 1724E-204, or (5) RUS bulletin 1724E-214. The exclusion for OEM round or polygonal tapered steel poles also

encompasses the following components thereof: subcomponent kits for antenna mounts weighing 80 lbs. or less; mounts and platforms; steel brackets, steel flanges, and steel caps; angles that do not exceed 8" x 8" x 0.75"; bridge kits; safety climbing cables; ladders; and steel templates.

The inclusion or attachment of one or more of the above-referenced steel poles in a structure containing fabricated structural steel (FSS) does not remove the FSS from the scope of the investigation. No language included in this exclusion should be read or understood to have applicability to any other aspect of this scope or to have applicability to or to exclude any product, part, or component other than those specifically identified in the exclusion.

9. Also excluded from the scope of the investigation are Shuttering, Formworks, Propping and Shoring and parts and accessories thereof that comply with ANSI/ASSE A10.9 –Safety Requirements for Concrete and Masonry Work and ACI-347 – Recommended Practice for Concrete Formwork. For Shoring and propping made from tube, the outside diameter of the tubing covered by this exclusion ranges from 48mm to 250mm. For Shuttering and Formworks, the panel sizes covered by this exclusion range from 25mm X 600mm to 3000mm X 3000mm.

10. Also excluded from the scope of the investigation are consumer items for do-it-yourself assembly that are prepackaged for retail sale. For the purposes of this exclusion, prepackaged for retail sale means that, at the time of importation, all components necessary to assemble the merchandise, including all steel components, all accessory parts (*e.g.*, screws, bolts, washers, nails), and instructions providing guidance on the assembly of the finished merchandise or directions on where to find such instructions, are enclosed in retail packaging, such that an end-use, retail consumer could assemble the completed product with no additional components. The items may enter the United States in one or in multiple retail packages as long as all of the components are imported together.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings: 7308.90.3000, 7308.90.6000, and 7308.90.9590.

The products subject to the investigation may also enter under the following HTSUS subheadings: 7216.91.0010, 7216.91.0090, 7216.99.0010, 7216.99.0090, 7222.40.6000, 7228.70.6000, 7301.10.0000, 7301.20.1000, 7301.20.5000, 7308.40.0000, 7308.90.9530, and 9406.90.0030.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of Investigation
- IV. Scope Comments
- V. Changes Since the Preliminary Determination
- VI. Discussion of the Issues

#### General

- Comment 1: Reporting Requirements for U.S. Sales
- Comment 2: Remove Home-Market Projects Outside the Reporting Requirements for U.S. Sales in the Constructed Value Profit Calculation

#### BSM

- Comment 3: Whether BSM Failed to Report Accurate and Reliable U.S. Prices, and Whether to Apply Adverse Facts Available to BSM
- Comment 4: Whether BSM Should Report the Value of Subject Merchandise Through a Section E Questionnaire Response
- Comment 5: Valuation of an Order Associated with Two Different Sales
- Comment 6: Whether BSM Double Counted Revenue for an Order
- Comment 7: Alternate Differential Pricing Analysis
- Comment 8: Grant CEP Offset
- Comment 9: CEP Profit Rate Calculation
- Comment 10: Whether Commerce Should Use BSM's Reported Date of Sale
- Comment 11: Whether Commerce Should Use the Revised Indirect Selling Expense Ratio for Components Segment Sales
- Comment 12: BSM's Affiliated Party Input Purchases
- Comment 13: CV Profit Rate Used for BSM
- Comment 14: BSM's Financial Expense Ratio
- Comment 15: Adjustments Required by Mexican Financial Reporting Standards (MFRS)
- Comment 16: Application of Partial Facts Available With Adverse Inferences

#### Corey

- Comment 17: Whether Corey's Hudson Yards Tower A Project Sale Fell Within the POI
- Comment 18: Whether to Rescind Voluntary Respondent Treatment of Corey
- Comment 19: Adjust Corey's Report Costs to Account for All Affiliated Purchases
- Comment 20: Subtract Scrap Revenue from Total Cost of Manufacturing

#### **VII. Recommendation**

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